

Message Text

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ACTION EA-06

INFO OCT-01 SS-14 ISO-00 NSC-05 NSCE-00 SSO-00 INR-05

INRE-00 IGA-01 CIAE-00 EB-03 L-01 PRS-01 /037 W

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O 081001Z JUN 75

FM MAMEBASSY VIENTIANE

TO SECSTATE WASHDC IMMEDIATE 4286

INFO AMEMBASSY MANILA IMMEDIATE

AMEMBASSY BANGKOK PRIORITY

CINCPAC HONOLULU HI PRIORITY

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LIMDIS

MANILA FOR ASSISTANT SECRETARY HABIB

C O R R E C T E D C O P Y FOR GARBLED PORTIONS THROUGHOUT

E.O. 11652: N/A

TAGS: PFOR, US, LA

SUBJ: NOTE ON PROCEDURE TO TURN OVER USAID ASSETS TO PGNU

REF: STATE 133376

PER COMMENT BELOW, WE PROPOSE DELIVER FOLLOWING NOTE TO MFA ON JUNE 9 UNLESS INSTRUCTED OTHERWISE. BEGIN TEXT: THE EMBASSY OF THE UNITED STATES OF AMERICA PRESENTS ITS COMPLIMENTS TO THE MINISTRY OF FOREIGN AFFAIRS OF THE PROVISIONAL GOVERNMENT OF NATIONAL UNION OF LAOS AND, IN LIGHT OF NUMEROUS POINTS OF CONTENTION WHICH HAVE ARISEN SURROUNDING THE DISSOLUTION OF THE MISSION TO LAOS OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT AND UNDER INSTRUCTIONS FROM THE DEPARTMENT OF STATE, HAS THE HONOR TO BRING TO THE MINISTRY'S ATTENTION THE FOLLOWING CLARIFICATIONS AND PRINCIPLES WHOSE APPLICATION, THE EMBASSY BELIEVES, WILL HASTEN THAT DISSOLUTION:

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1. THE ONLY UNILATERAL DECISION BY THE GOVERNMENT OF THE UNITED

STATES WITH RESPECT TO THE USAID MISSION TO LAOS WAS THE DECISION TO CLOSE THE USAID FIELD OFFICES AT BAN HOUET SAI, LUANG PRABANG, BAN XON, LONG TIENG, SAVANNAKHET AND PAKSE. THIS DECISION WAS TAKEN ONLY AFTER VIOLENT DEMONSTRATIONS AT TWO OF THE ABOVE-MENTIONED USAID OFFICES ON MAY 14, 1975, DURING WHICH THE PROVISIONAL GOVERNMENT OF NATIONAL UNION FAILED TO PROVIDE SECURITY FOR THOSE OFFICES AND THEIR AMERICAN AND LAO PERSONNEL; AND AFTER THE PROVISIONAL GOVERNMENT OF NATIONAL UNION FAILED TO ACT PROMPTLY TO FREE A NUMBER OF AMERICAN EMPLOYEES DETAINED ILLEGALLY UNDER HOUSE ARREST IN THE CITY OF SAVANNAKHET. THIS DECISION WAS COMMUNICATED TO HIS HIGHNESS THE PRIME MINISTER IN A LETTER FROM THE CHARGE D'AFFAIRES, A.I., OF THE UNITED STATES, DATED MAY 20, 1975.

2. THE BROADER DECISION TO TERMINATE THE ENTIRE USAID MISSION TO LAOS, INCLUDING ITS HEADQUARTERS IN VIENTIANE, WAS TAKEN AT THE SPECIFIC REQUEST OF THE PROVISIONAL GOVERNMENT OF NATIONAL UNION. THIS REQUEST WAS COMMUNICATED TO THE UNITED STATES GOVERNMENT IN A VARIETY OF WAYS, BUT MOST SIGNIFICANTLY BY HIS EXCELLENCY THE MINISTER OF FOREIGN AFFAIRS IN A CONVERSATION WITH THE CHARGE D'AFFAIRES, A.I., ON MAY 19, 1975. THE RESPONSE OF THE UNITED STATES GOVERNMENT TO THIS REQUEST WAS FORMALLY COMMUNICATED TO THE PROVISIONAL GOVERNMENT OF NATIONAL UNION BY THE CHARGE D'AFFAIRES, A.I., IN HIS LETTER OF MAY 24, 1975 TO THE FOREIGN MINISTER.

3. THE UNITED STATES OVER THE LAST 30 YEARS HAS FURNISHED ECONOMIC ASSISTANCE TO MANY COUNTRIES THROUGHOUT THE WORLD AND IN MANY CASES HAS TERMINATED ITS ECONOMIC ASSISTANCE PROGRAMS BECAUSE THOSE PROGRAMS

HAD ACHIEVED THEIR DEVELOPMENT OBJECTIVES. SUCH PROGRAMS; AND THE MISSIONS WHICH ADMINISTERED THEM, HAVE ALWAYS BEEN TERMINATED IN AN ORDERLY MANNER WITH THE COOPERATION OF THE GOVERNMENT OF THE RECIPIENT COUNTRY. THE GOVERNMENT OF THE UNITED STATES HAS HOPED AND CONTINUES TO HOPE THAT THE TERMINATION OF THE USAID MISSION TO LAOS, AND THE ACCOMPANYING TRANSFER TO THE PROVISIONAL GOVERNMENT OF NATIONAL UNION OF APPROPRIATE USAID PROPERTY, MATERIALS AND EQUIPMENT,

CAN ALSO PROCEED IN AN ORDERLY AND EXPEDITIOUS MANNER. THE EXPERIENCE OF NEGOTIATIONS CONCERNING THIS TERMINATION AND THESE TRANSFERS TO DATE, HOWEVER, HAS RAISED QUESTIONS AS TO WHETHER THE ENTIRE PROCESS CAN IN FACT BE ACCOMPLISHED ON AN ORDERLY AND EXPEDITIOUS BASIS.
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IN ORDER TO CLARIFY THE SITUATION, THE EMBASSY WISHES TO EMPHASIZE A BASIC FACT REGARDING THE ORIGIN AND DISPOSITION OF PROPERTY, MATERIALS AND EQUIPMENT PURCHASED BY THE UNITED STATES GOVERNMENT IN CONNECTION WITH ITS ECONOMIC ASSISTANCE PROGRAMS. IT IS THE CONGRESS OF THE UNITED STATES THAT PROVIDES THE FUNDS FOR ECONOMIC ASSISTANCE AND PASSES THE LEGISLATION GOVERNING THE USE OF THOSE FUNDS; THE EXECUTIVE BRANCH HAS ONLY THOSE DISCRETIONARY POWERS WHICH THE CONGRESS HAS GRANTED IT. UNDER THE TERMS OF THE GOVERNING LEGISLATION

PASSED BY THE UNITED STATES CONGRESS FUNDS FOR ECONOMIC ASSISTANCE PROGRAMS ARE OF TWO GENERAL TYPES:

(A) THOSE ALLOCATED SPECIFICALLY FOR ASSISTANCE AND USED FOR THE PURCHASE OF PROPERTY, MATERIALS AND EQUIPMENT AS PROVIDED FOR IN PROJECT AGREEMENTS THAT HAVE BEEN NEGOTIATED WITH THE GOVERNMENT OF THE RECIPIENT COUNTRY;

(B) ALL OTHER FUNDS, WHICH ARE USED FOR THE ADMINISTRATIVE SUPPORT OF AN ECONOMIC ASSISTANCE MISSION, SO AS TO PROVIDE THAT MISSION WITH VEHICLES, OFFICE AND RESIDENTIAL FURNITURE AND EQUIPMENT, AND SO FORTH.

4. IN LIGHT OF THESE CONSIDERATIONS AND SPECIFICALLY IN LIGHT OF THE DISTINCTION BETWEEN THE TWO TYPES OF FUNDS SET FORTH IN THE PRECEDING PARAGRAPH, THERE ARE SEVERAL PRINCIPLES WHICH, FROM THE STANDPOINT OF THE UNITED STATES GOVERNMENT, MUST APPLY IN THE CURRENT NEGOTIATIONS WITH THE PROVISIONAL GOVERNMENT OF NATIONAL UNION REGARDING THE TERMINATION OF THE USAID MISSION TO LAOS AND THE TRANSFER OF ITS PROPERTY, MATERIALS AND EQUIPMENT:

(A) THE AGREEMENT SIGNED ON MAY 27, 1975, BY HIS EXCELLENCY THE MINISTER OF ECONOMY AND PLAN AND THE AMERICAN CHARGE D'AFFAIRES, A.I., MAKES CLEAR THAT THE PROPERTY, MATERIALS AND EQUIPMENT TO BE TURNED OVER TO THE PROVISIONAL GOVERNMENT OF NATIONAL UNION ARE THOSE WHICH WERE PURCHASED UNDER PROJECT AGREEMENTS, AND -- AS WITH ALL OTHER PROJECT-FUNDED ASSISTANCE -- THE UNITED STATES GOVERNMENT MUST RETAIN EXISTING RIGHTS OF AUDIT AND INSPECTION TO THE EXTENT REASONABLY REQUIRED TO ASSURE THAT SUCH MATERIALS AND EQUIPMENT ARE USED FOR THE INTENDED PROJECT PURPOSES. THIS REQUIREMENT NEED NOT BE BURDENSOME AND COULD BE FULFILLED AFTER THE FORMAL TERMINATION OF THE USAID MISSION TO LAOS.

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ACTION EA-06

INFO OCT-01 SS-14 ISO-00 NSC-05 NSCE-00 SSO-00 INR-05

INRE-00 IGA-01 CIAE-00 EB-03 L-01 PRS-01 /037 W

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O 081001Z JUN 75

FM AMEMBASSY VIENTIANE

TO SECSTATE WASHDC IMMEDIATE 4287

INFO AMEMBASSY MANILA IMMEDIATE

AMEMBASSY BANGKOK PRIORITY

CINCPAC HONOLULU HI PRIORITY

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(B) WITH RESPECT TO ALL OTHER USAID PROPERTY, WHICH IS ADMINISTRATIVE IN NATURE AND WHICH IS NOT COVERED BY PROJECT AGREEMENTS, THE UNITED STATES GOVERNMENT MUST RETAIN THE RIGHT TO DETERMINE WHETHER SUCH PROPER-

TY IS USABLE BY THE UNITED STATES GOVERNMENT IN LAOS OR ELSEWHERE IN THE WORLD. DURING THE COURSE OF NEGOTIATIONS BETWEEN THE TWO GOVERNMENTS, IT HAS BECOME ABUNDANTLY CLEAR THAT NEGOTIATORS FOR THE PROVISIONAL GOVERNMENT OF NATIONAL UNION ERRONEOUSLY EXPECT THAT ALL PROPERTY OF THE USAID MISSION -- THAT OWNED BY THE UNITED STATES GOVERNMENT, AS WELL AS THAT FINANCED THROUGH PROJECT AGREEMENTS AND THUS TO BE TURNED OVER TO THE PROVISIONAL GOVERNMENT OF NATIONAL UNION -- WILL AUTOMATICALLY REVERT TO THE PROVISIONAL GOVERNMENT OF NATIONAL UNION. THIS CANNOT BE THE CASE, ALTHOUGH IT REMAINS THE INTENT OF THE UNITED STATES GOVERNMENT TO TURN OVER TO THE PROVISIONAL GOVERNMENT OF NATIONAL UNION THE LARGE PERCENTAGE OF SUCH MATERIALS AND EQUIPMENT OWNED BY THE UNITED STATES GOVERNMENT AFTER IT HAS BEEN DETERMINED THAT THE UNITED STATES GOVERNMENT HAS NO FURTHER USE FOR INDIVIDUAL ITEMS OF EQUIPMENT AND MATERIEL.

(C) THE UNITED STATES GOVERNMENT MUST INSIST THAT THE PROVISIONAL LIMITED OFFICIAL USE
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GOVERNMENT OF NATIONAL UNION ASSUME IN PRINCIPLE THE RESPONSIBILITY TO COMPENSATE THE UNITED STATES GOVERNMENT FOR ANY LOSSES OF, OR DAMAGES WHICH HAVE ALREADY BEEN OR MAY IN THE FUTURE BE INFLICTED ON, OFFICIAL PROPERTY OF THE UNITED STATES OR PERSONAL PROPERTY OF UNITED STATES GOVERNMENT EMPLOYEES. IT IS ANTICIPATED THAT SUCH COMPENSATION, IF REQUIRED, WILL REPRESENT PRIMARILY REIMBURSEMENT FOR PAYMENTS WHICH THE UNITED STATES GOVERNMENT WILL BE OBLIGED TO MAKE TO ITS EMPLOYEES IF THEY ARE FORCED TO ABANDON THEIR PERSONAL PROPERTY IN LAOS. IT WILL OBVIOUSLY REQUIRE SOME TIME BEFORE THE UNITED STATES GOVERNMENT WILL BE ABLE TO ASCERTAIN THE TOTAL AMOUNT OF SUCH DAMAGES OR LOSSES.

THE EMBASSY HOPES THAT THE NEGOTIATIONS CONCERNING THE TERMINATION OF THE USAID MISSION TO LAOS AND THE TRANSFER OF APPROPRIATE USAID PROPERTY, MATERIALS AND EQUIPMENT TO THE PROVISIONAL GOVERNMENT OF NATIONAL UNION CAN PROCEED ON AN ORDERLY AND MORE EXPEDITIOUS BASIS. IF THIS IS NOT THE CASE, HOWEVER, AND IN VIEW OF PARAGRAPH 2 OF THE AFOREMENTIONED AGREEMENT OF MAY 27 WHICH REQUIRES ALL AMERICAN AND THIRD-COUNTRY-NATIONAL EMPLOYEES OF USAID TO DEPART LAOS ON OR BEFORE JUNE 30, 1975, IT WOULD THEN BECOME NECESSARY FOR THE USAID PERSONNEL TO DISCONTINUE THE CURRENT NEGOTIATIONS AND TO

LEAVE THEIR RESUMPTION TO OTHER APPROPRIATE OFFICIALS OF THE UNITED STATES GOVERNMENT.

THE EMBASSY WISHES TO ASSURE THE PROVISIONAL GOVERNMENT OF NATIONAL UNION THAT IT REMAINS PREPARED TO FULFILL ALL ITS RIGHTFUL OBLIGATIONS UNDER THE 1951 AGREEMENT ON ECONOMIC COOPERATION; THE NUMEROUS PROJECT AGREEMENTS PREVIOUSLY NEGOTIATED BETWEEN THE TWO GOVERNMENTS; AND THE AGREEMENT SIGNED ON MAY 27, 1975, BY THE MINISTER OF ECONOMY AND PLAN AND THE CHARGE D'AFFAIRES, A.I. AT THE SAME TIME, HOWEVER, THE EMBASSY MUST MAKE CLEAR TO THE PROVISIONAL GOVERNMENT OF NATIONAL UNION THAT THE MANNER IN WHICH THE CURRENT NEGOTIATIONS PROCEED WILL HAVE A DIRECT BEARING ON THE NATURE OF THE RELATIONS BETWEEN THE TWO GOVERNMENTS AND ON NEGOTIATIONS CONCERNING POSSIBLE FUTURE ECONOMIC ASSISTANCE FROM THE UNITED STATES GOVERNMENT TO THE PROVISIONAL GOVERNMENT OF NATIONAL UNION.

THE EMBASSY OF THE UNITED STATES OF AMERICA TAKES THIS OPPORTUNITY TO RENEW TO THE MINISTRY OF FOREIGN AFFAIRS THE ASSURANCES OF ITS HIGH CONSIDERATION.

COMMENT:

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1. COUNTRY TEAM FULLY ACCEPTS NEED TO MEET LEGAL REQUIREMENTS AND BELIEVES IT NECESSARY TO PUT THE CASE IN WRITING IN ORDER TO DISPELL THE CONFUSION THAT CONTINUES TO EXIST OVER THE SUBJECT OF TURNING OVER USG ASSETS. THERE IS HOWEVER SERIOUS POSSIBILITY THAT LAO WILL INTERPRET THIS NOTE AS AN EFFORT ON PART OF USG TO SQUIRM OUT OF OBLIGATIONS UNDERTAKEN. WE BELIEVE THAT LAO SUSPICIONS WILL BE PARTICULARLY STRENGTHENED IF WE REFUSE TO TURN OVER ANY REAL PROPERTY (NOT INCLUDED IN PROJECT AGREEMENTS) BEFORE THEY ACCEPT THREE CONDITIONS.

2. WE TAKE IT THAT OUR IMMEDIATE OBJECTIVES ARE TO CARRY OUT MAY 27 AGREEMENTS (TERMINATION OF USAID; WITHDRAWAL OF USAID EMPLOYEES; TURN OVER OF PROJECT FUNDED MATERIALS); TO PROTECT, IN ACCORDANCE WITH THE LAW, USG ASSETS FOR WHICH WE MIGHT HAVE USES ELSEWHERE; AND TO DO ALL THIS IN ORDERLY FASHION TO LAY THE BASIS FOR A NEW RELATIONSHIP WHICH AT MINIMUM WILL INCLUDE MAINTENANCE OF DIPLOMATIC MISSION HERE.

3. WE BELIEVE THAT TO ACHIEVE THESE OBJECTIVES WE MUST PROCEED PRAGMATICALLY AND REALISTICALLY, AND NOT PURELY LEGALISTICALLY. SPECIFICALLY, WE SHOULD BE ABLE TO SAY, AT THE TIME WE HAND THE NOTE TO MFA, THAT WE ARE PREPARED TO TURN OVER ALL REAL PROPERTY, WHICH IS NOT INCLUDED IN PROJECT-AGREEMENTS BUT FOR WHICH WE NO LONGER HAVE ANY USE--KM-9, KM-6, WATTAY WAREHOUSE. (WE HAVE TOLD THEM ON SEVERAL OCCASIONS THAT WE WERE WAITING FOR SPECIAL AUTHORITY TO DO SO.) WE WOULD OF COURSE RESERVE, IN ACCORDANCE WITH THE NOTE, THE RIGHT OF THE USG OVER ITS ASSETS WHP_1K!H3FQ

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+7)X0Q-!0XT

_Q>Q6<0@)B,Q,5XUFE!0EC)RQU6X\$!KDTH)UKO!SIQJW*0\$JA .5AH0I#\$/2"X+D#3H:H<7Y#4)!\$/U@R"J>D\$TP*H:2)Q@-N.QDTE4\$ I6XHR

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/CCPYCE_2@QKYCU/PTPC247Q-//W9(DYGQBHAKK,C.< A)QH6)@JCE_@K2QD#_O;FA,4\$1K

Message Attributes

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Copy: SINGLE
Draft Date: 08 JUN 1975
Decaption Date: 28 MAY 2004
Decaption Note: 25 YEAR REVIEW
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Disposition Approved on Date:
Disposition Authority: greeneet
Disposition Case Number: n/a
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Disposition Date: 28 MAY 2004
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Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D750200-0263
From: VIENTIANE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t19750669/aaaacbi.tel
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